

FILED
SEP 20 2008
Karin Schmitt
CLERK OF THE
INDIANA SUPREME COURT
COURT OF APPEALS
AND TAX COURT

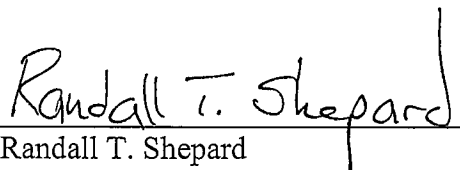
ORDER APPROVING AMENDED LOCAL RULES

IT IS, THEREFORE, ORDERED by this Court that Posey Circuit and Superior Courts' Local Rules LR65-CR2.2-01, LR65-AR1-02, LR65-AR1-03, LR65-CR2.2-04, LR65-TR79-05, and LR65-AR15-11, set forth as an attachment to this Order, are approved effective thirty (30) days after the rules have been posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. James M. Redwine, Posey Circuit Court, Courthouse, P.O. Box 745, Mount Vernon, IN 47620-0745; the Hon. S. Brent Almon, Posey Superior Court, Courthouse, P.O. Box 604, Mount Vernon, IN 47620-0604, and to the Clerk of the Posey Circuit and Superior Courts.

The Clerk of the Posey Circuit and Superior Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 20th day of September, 2006.



Randall T. Shepard
Chief Justice of Indiana

**In the
Indiana Supreme Court**

IN THE MATTER OF)

REQUEST FOR APPROVAL)

OF LOCAL RULES)

FOR COURTS OF RECORD IN)

POSEY COUNTY)

Case No.

REQUEST FOR APPROVAL OF LOCAL RULES

The judges of the courts of record of Posey County have decided to adopt the local rules indicated below and request Supreme Court approval for the following local rules for which Supreme Court approval is required:

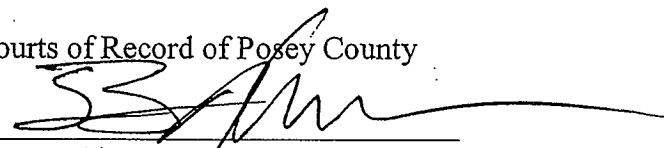
1. Special judge selection rule pursuant to Trial Rule 79 (H);
2. Reassignment of criminal cases pursuant to Criminal Rule 2.2;
3. Court reporter rule pursuant to Administrative Rule 15;
4. Caseload allocation rule pursuant to Administrative Rule 1;

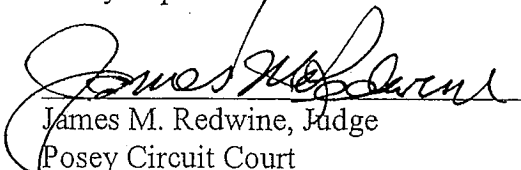
The local rule(s) indicated above have been published for comment pursuant to the schedule established by T.R. 81 (B) for not less than 45 days.

Accordingly, the judges of record of Posey County request approval of the above noted Local Rules.

Submitted this 23rd day of August, 2006.

For the Courts of Record of Posey County


S. Brent Almon, Judge
Posey Superior Court


James M. Redwine, Judge
Posey Circuit Court

LOCAL RULES
OF THE
POSEY CIRCUIT AND SUPERIOR COURTS

LR65-CR2.2-01. **Rule for the Assignment of Criminal Cases in the Posey Circuit**

and Superior Courts. The Clerk of the Courts of Posey County shall assign criminal cases between the Courts of Posey County as follows:

(A) Felony cases (MR, FA, FB, FC, and FD) shall be randomly assigned to the Posey Circuit and Superior Courts in accordance with LR65-AR1-03. If an indictment or information contains felony and misdemeanor charges, the case shall be considered a felony case.

(B) Misdemeanor cases (CM) shall be assigned to the Posey Superior Court.

(C) Post Conviction Relief Petitions (PC) shall be assigned to the court in which judgment of conviction was entered.

LR65-AR1-02. **Rules for Assignment of Civil Cases in the Posey Circuit and**

Superior Courts. Civil cases shall be assigned between Posey Circuit and Superior Courts as follows:

(A) Dissolution of Marriage (DR), Protective Order (PO) where the parties have an unemancipated child in common, Mental Health (MH), Juvenile CHINS (JC), Juvenile Delinquency (JD), Juvenile Status (JS), Juvenile Miscellaneous (JM), Juvenile Termination of Parental Rights (JT), Juvenile Paternity (JP), Reciprocal Support (RS), Adoption (AD), Estate Supervised (ES), Estate Unsupervised (EU), Guardianship (GU), Trust (TR) cases shall be assigned to the Posey Circuit Court.

(B) Small Claim (SC), Traffic Violation and other Infraction (IF), Local Ordinance Violations (OV), and Protective Order (PO) (except where the parties have an unemancipated child in common) cases shall be assigned to the Posey Superior Court.

(C) Civil Plenary (CP), Civil Collection (CC), Mortgage Foreclosure (MF), Civil Tort (CT), and Miscellaneous Civil (MI) cases shall be randomly assigned to the courts in accordance with LR65-AR1-03 with the exception that petitions for hardship driver's license shall be assigned to the Posey Superior Court and petitions for change of name shall be assigned to the Posey Circuit Court.

LR65-AR1-03. **Rule for Random Assignment of Felony and Civil Cases.** The Clerk of the Courts of Posey County shall devise and utilize a plan for the random and equal assignment of those felony and civil cases required by these rules to be assigned at random to the Posey Circuit and Superior Courts.

LR65-CR2.2-04. **Change of Judge in Criminal Cases.**

(A) If a change of judge, recusal, or disqualification is granted by the judge of the Posey Circuit or Superior Court in a felony or misdemeanor case under the provisions of Indiana Criminal Rule 12, if a change of judge is granted pursuant to Indiana Post-Conviction Remedy Rule 1(4)(b), and upon change of judge in infraction and ordinance violation cases, the Clerk shall assign the case to the remaining judge of the Posey Superior or Circuit Court, as the case may be. Should the judge of the Posey Superior or Circuit Court be unwilling or ineligible to serve as special judge in the case thus assigned, the Clerk shall then assign the case to a senior judge of the court in which the case is pending. If such senior judge of the court in which the case is pending is unwilling or ineligible to serve as special judge in the case, the Clerk shall then assign the case to the senior judge of the other Posey County Court. If no senior judge is

available or willing to serve, the Clerk shall assign the case to a full-time judge or magistrate serving in a court in Vanderburgh or Gibson County. Each January 15, the Clerk of the Courts of Posey County shall compile a list of the judges then serving in Gibson and Vanderburgh Counties, post the same in the offices of the Clerk, and said assignments shall be made from said list seriatim. If no judge in Vanderburgh or Gibson County is available to serve under the provisions of this rule, or if the judge of the Posey Circuit or Superior Court determines that special circumstances merit the appointment of a special judge, the Court shall certify the case to the Indiana Supreme Court for the appointment of a special judge.

(B) A judge assigned to a case pursuant to these local rules remains the judge in the case unless the judge shall become ineligible or unwilling to serve, in which event a new judge shall be assigned in accordance with this rule.

(C) If a felony or misdemeanor case is dismissed from and re-filed in the Posey Circuit and/or Superior Court, or a new case is filed based on the same underlying incident, the judge assigned to the case at the time of the dismissal shall be assigned as the judge in the case upon the case being filed or re-filed, unless the judge in the dismissed case shall order otherwise, in which event the case shall be assigned to another judge in accordance with this rule.

LR65-TR79-05. **Rule for the Selection of a Special Judge in a Civil Case in the Posey Circuit and Superior Courts.** If it shall become necessary to select a special judge in the Posey Circuit or Superior Court pursuant to Rule 79 (H), Indiana Rules of Trial Procedure, the following procedure shall be used in the selection of the special judge:

(A) The judge of the Posey Circuit Court shall serve as special judge in all cases wherein the judge of the Posey Superior Court is ineligible to serve or an order of disqualification or recusal has been entered. The judge of the Posey Superior Court shall serve

as special judge in all cases wherein the judge of the Posey Circuit Court is ineligible to serve or an order of disqualification or recusal has been entered.

(B) Should the judge of the Posey Superior or Circuit Court be ineligible to serve as special judge in the case thus assigned, the Clerk shall then assign the case to a senior judge of the court in which the case is pending. If such senior judge of the court in which the case is pending is ineligible to serve as special judge in the case, the Clerk shall then assign the case to the senior judge of the other Posey County Court.

(C) If no judge qualifies and assumes jurisdiction under subdivision (A) or (B) of this rule, then a special judge shall be selected from a list of eligible judges and magistrates (see TR79-J) then serving in administrative district 13 (see Administrative Rule 3(A)). The Clerk shall compile a list of those eligible for service each January 15, post the same in the offices of the Clerk, and shall assign from said list seriatim.

(D) If no judge or magistrate is available to serve under the provisions of this rule or if the judge of the Posey Circuit or Superior Court feels that special circumstances merit the appointment of a special judge by the Indiana Supreme Court, the Court shall certify the case to the Supreme Court for the appointment of a special judge.

LR65-CR2.2-06. **Transfer of Cases.** The judge of the Posey Circuit or Superior Court may transfer any case to the Posey Superior or Circuit Court, as the case may be, with the permission of the judge of the Court to which the case is to be transferred.

LR65-TR6-07. **Extension of Time to Answer Complaint.** A thirty (30)-day extension of time to answer the original complaint in a civil action shall be effective without separate order of the court upon filing of a notice of such extension by the answering party prior to the original answer date.

LR65-TR16-08. **Pre-Pretrial Conferences.** In all Posey Circuit or Superior Court matters, except children in need of services, protective orders, juvenile cases, criminal cases, election recounts and other such statutorily prescribed proceedings and emergency matters, small claim, civil collection, and mortgage foreclosure cases; within 30 days after the issues are closed, the party that initiated the cause shall schedule a pre-pretrial conference with all counsel of record and all pro-se litigants as follows:

(A) This pre-pretrial shall be held in person, or with prior court permission, electronically, within 60 days after the issues are closed.

(B) All attorneys and all litigants shall attend this pre-pretrial. If the location for the pre-pretrial conference cannot be agreed upon, the same shall be held in the court facilities where the case is pending. The judge will not be involved in this pre-pretrial.

(C) The parties and their counsel shall discuss settlement and other Trial Rule 16 matters. A written report shall be prepared, signed by all counsel and pro-se litigants, and shall be filed within 14 days after conclusion of the pre-pretrial.

(D) If all issues are not settled during this pre-pretrial, the parties shall engage in mediation. The parties may agree upon a mediator who is willing to serve or the parties may contact the court to name a panel. The parties shall equally share the costs of mediation unless otherwise determined during the mediation. Plaintiff's counsel shall file a certificate with the court indicating the initial date of mediation and the mediator agreed upon by the parties.

LR65-TR16-09. **Trans Parenting Seminar.** In all domestic relation matters involving minor children, the parents are ordered to attend and pay for the "Trans Parenting" seminar prior to trial on the merits.

LR65-TR16-10. **Guardian Ad Litem.** In all cases where the appointment of a

Guardian Ad Litem is required by law, the court will appoint an attorney in good standing in the Indiana Bar whose fees and expenses shall be paid by the party or parties initiating the action and/or, if necessary, from public funds at the prevailing pauper attorney rate.

LR65-AR15-11. **COURT REPORTERS.**

Section 1 - Definitions. The following definitions shall apply under this local rule 11.

(1) A **Court Reporter** is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.

(2) **Equipment** means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing and transcribing electronic data.

(3) **Work Space** means that portion of the court's facilities dedicated to each court reporter including, but not limited to, actual space in the courtroom and any designated office space.

(4) **Page** means the page unit of transcript, which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.

(5) **Recording** means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

(6) **Regular hours worked** means those hours which the court is regularly scheduled to work during any given workweek. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each workweek.

(7) **Gap hours worked** means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.

(8) **Overtime hours worked** means those hours worked in excess of forty (40) hours per workweek.

(9) **Work week** means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.

(10) **Court** means the particular court for which the court reporter performs services. **Court** may also mean all of the courts in Posey County.

(11) **County indigent transcript** means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(12) **State indigent transcript** means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(13) **Private transcript** means a transcript, including, but not limited to, a deposition transcript and a transcript requested by a party who is not indigent, that is paid for by a private party.

(14) **Minimum fee** means the minimum amount a Court Reporter may charge for a transcript which does not add up to \$40.00 (ten pages or less). The minimum fee may not be charged in addition to the per-page fee.

(15) **Labor fee** is a fee that Court Reporters may charge for the amount of time spent binding the transcript and exhibit binders which is to be figured at an approximate hourly rate based upon the Court Reporter's annual court compensation.

(16) **Office supplies** are the supplies required and utilized for the binding and

electronic transmission of the transcripts. The Court Reporter may be reimbursed for the office supplies pursuant to a Schedule of Transcript Supplies for the Posey Circuit and Posey Superior Courts.

(17) **Expedited transcripts** are transcripts that have been requested to be completed by court reporters with a completion date within 30 days from the date ordered.

Section 2 - Salaries and Per Page Fees.

(1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours, i.e. monetary compensation or compensatory time off regular work hours.

(2) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be \$4.00, including pages prepared for the Index and Table of Contents plus \$4.00 per first page for each exhibit, plus office supply costs pursuant to the Schedule of Transcript Supplies. The Court Reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts that are not prepared during regular work hours.

(3) The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$4.00 including pages prepared for the Index and Table of Contents, plus \$4.00 per first page for each exhibit and \$2.00 for each additional page of each exhibit, plus office supply costs pursuant to the Schedule of Transcript Supplies. Monies shall be paid directly to the court reporter if done during non-regular work hours, or the monies shall

be paid directly to the court for any transcripts that are prepared during regular work hours.

(4) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$4.00 including pages prepared for the Index and Table of Contents, plus \$4.00 per first page for each exhibit and \$2.00 for each additional page of each exhibit, plus office supply costs pursuant to the Schedule of Transcript Supplies.

(5) A court reporter shall charge \$1.00 per page for each copy of a transcript.

(6) If a court reporter is requested to prepare a non-indigent transcript, all such work shall be done "off the clock" and generally all such transcripts are to be transcribed outside of regular working hours. Hours worked on transcript preparation for non-indigent transcripts do not count towards "hours worked" for calculation of eligibility for overtime compensation. With the judge's prior approval, a court reporter may transcribe a non-indigent transcript during the regular work day if the court reporter substitutes any leave time, including compensatory time already earned, for those hours spent during the regular work day transcribing the non-indigent transcript. By doing so, although physically present, the court reporter will be "off the clock."

(7) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent (transcripts not prepared during regular work hours) or private transcripts to the Indiana Supreme Court Division of State Court Administration. The report shall be made on forms prescribed by the Division of State Court Administration.

(8) Each court reporter may charge a \$14.00 hourly labor fee for the time spent binding the transcript and the exhibits.

(9) Each court reporter may charge for office supplies required and utilized for the binding and electronic transmission of the transcript pursuant to the Schedule of Cost of

Transcript Supplies for the Posey Circuit and Posey Superior Courts.

(10) Each court reporter may charge a minimum transcript fee of \$40.00 for transcripts of ten (10) pages or less. No other fees may be charged if a minimum transcript fee is charged.

(11) The maximum per page fee a court reporter may charge for the preparation of a private or county expedited transcript with the completion date of within 30 days shall be twice the amount of a nonexpedited private transcript plus office supply costs pursuant to the schedule of transcript and binding fees.

Section 3 - Private Practice.

(1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must at a minimum designate the following:

- (a) The reasonable market rate for the use of equipment, workspace and supplies;
- (b) The method by which records are to be kept for the use of equipment, work space and supplies; and
- (c) The method by which the court reporter is to reimburse the court for the use of the equipment, workspace and supplies.

(2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript ("private practice"), all such private practice shall be done "off the clock" and generally all such transcripts are to be transcribed outside of regular working hours. Hours in private practice do not count towards "hours

worked” for calculation of eligibility for overtime compensation. With the judge’s prior approval, a court reporter may work in private practice during the regular work day if the court reporter substitutes any leave time, including compensatory time already earned, for those hours spent during the regular work day in private practice. By doing so, even if physically present, the court reporter will be “off the clock.”

Section 4 – Schedule of Cost of Transcript Supplies.

The following are the prices court reporters in Posey County’s courts are allowed to charge for the use of each of the following items in the preparation of transcripts:

Compact disk and plastic case (priced together)	\$2.50 for each one used
3.5 Diskette and plastic cover (priced together)	\$1.50 for each one used
Binders (per each binder that is used for a transcript)	\$1.50 for each one used
Labels to identify exhibits	\$0.10 for each one used
Film and cost of development	Actual cost with receipt plus thirty-three (33%) percent
Plastic sleeves for exhibits	\$0.15 for each one used

Any other supplies used will be charged at the cost to the court reporter plus thirty-three (33%) percent.

LR65-TR79-12. **Relief From Local Rules.** A court, upon its own motion, or upon good cause shown, on a case-by-case basis, may by specific order provide or direct relief from the operation of these local rules.

Caseload Allocation Plan

Recommendation for Posey County

Recommendation: Approve

A preliminary analysis of Posey County's Caseload Allocation Plan revealed that the projected utilization variation between Posey Circuit Court and Posey Superior Court is less than the 0.40 allowable variation (see Figure 1).

	Projected Need	Actual Have	Projected Utilization
Circuit	0.88	1.00	0.8796
Superior	0.68	1.00	0.6827
		<i>Difference</i>	0.1969

Figure 1

Method:

The projected utilization calculations displayed above are based on an analysis of Posey County's Caseload Allocation Plan and 2005 historical data. Please see Appendix A and Appendix B for a detailed analysis.

The Caseload Allocation Plan did not specifically address MC, MF, and CC cases, therefore, 2005 historical data were used in allocation projections for those cases.

Appendix A
Posey County 2006 WCL Plan

	Actual 2005 New Filings			Assignment of cases based upon plan			Comments	Application of plan guidelines and assumptions to 2005		
	Circ. 1	Sup. 1	Total	Circ. 1	Sup. 1	Total		Circ. 1	Sup. 1	Total
MR			0							
CF			0							
FA	12	2	14	50.00%	50.00%	100.00%	*Random Assignment	7	7	14
FB	12	13	25	50.00%	50.00%	100.00%	*Random Assignment	13	13	25
FC	13	18	31	50.00%	50.00%	100.00%	*Random Assignment	16	16	31
FD	46	49	95	50.00%	50.00%	100.00%	*Random Assignment	48	48	95
PC	3	3	3	50.00%	50.00%	100.00%	*Random Assignment	2	2	3
CM	5	443	448	0.00%	100.00%	100.00%		0	448	448
MC	3		3	100.00%	0.00%	100.00%	*Historical--Not Addressed	3	0	3
IF		3,007	3,007	0.00%	100.00%	100.00%		0	3,007	3,007
OV/OE		11	11	0.00%	100.00%	100.00%		0	11	11
JC	12		12	100.00%	0.00%	100.00%		12	0	12
JD	36		36	100.00%	0.00%	100.00%		36	0	36
JS	4		4	100.00%	0.00%	100.00%		4	0	4
JP	58		58	100.00%	0.00%	100.00%		58	0	58
JM	74		74	100.00%	0.00%	100.00%		74	0	74
JT			0	100.00%	0.00%	100.00%		0	0	0
CP			0							
PL	16	13	29	50.00%	50.00%	100.00%	*Random Assignment	15	15	29
MF	37	44	81	45.68%	54.32%	100.00%	*Historical--Not Addressed	37	44	81
CC	110	65	175	62.86%	37.14%	100.00%	*Historical--Not Addressed	110	65	175
CT	6		12	50.00%	50.00%	100.00%	*Random Assignment	6	6	12
SC		446	446	0.00%	100.00%	100.00%		0	446	446
DR	158		158	100.00%	0.00%	100.00%		158	0	158
RS	4		4	100.00%	0.00%	100.00%		4	0	4
MH	7		7	100.00%	0.00%	100.00%		7	0	7
AD	10		10	100.00%	0.00%	100.00%		10	0	10
AH			0							
ES,EU	103		103	100.00%	0.00%	100.00%		103	0	103
GU	17		17	100.00%	0.00%	100.00%		17	0	17
TR			0	100.00%	0.00%	100.00%		0	0	0
PO	43	184	227	18.94%	81.06%	100.00%	*Historical--high level of detail in plan	43	184	227
MI	5		5	50.00%	50.00%	100.00%	*Random Assignment	3	3	5
CB			0							
TOTAL	794	4,301	5,095					783	4,312	5,095

Posey

Circuit	
Total Actual Minutes	70928
Actual Need (to date)	0.88
Quarters Counted	4
Projected Need (Year)	0.88
Actual Have	1.00
Projected Utilization:	0.8796

Superior

Total Actual Minutes:	55057
Actual Need (to date):	0.68
Quarters Counted:	4
Projected Need (Year):	0.68
Actual Have:	1.00
Projected Utilization:	0.6827

County Summary (All Courts)

Projected Need:	1.56
Actual Have:	2.00
Projected Utilization:	0.7812

Type	Weight	Circuit		Superior		Total Cases	
		Cases	Proj. Min.	Cases	Proj. Min.	Minutes	Projected
Capital	2649	0	0	0	0	0	0
MR	453	0	0	0	0	0	0
CF	155	0	0	0	0	0	0
FA	420	7	2940	7	2940	14	5880
FB	260	13	3250	13	3250	25	6500
FC	210	16	3255	16	3360	32	6615
FD	75	48	3600	48	3563	96	7163
PC	0	2	0	2	0	3	0
CM	40	0	0	448	17920	448	17920
MC	18	3	54	0	0	3	54
IF	2	0	0	3007	6014	3007	6014
OV	2	0	0	11	22	11	22
JC	111	12	1332	0	0	12	1332
JD	60	36	2160	0	0	36	2160
JS	58	4	232	0	0	4	232
JP	82	58	4756	0	0	58	4756
JM	12	74	888	0	0	74	888
JT	194	0	0	0	0	0	0
CP	106	0	0	0	0	0	0
PL	121	15	1755	15	1755	29	3509
MF	23	37	851	44	1012	81	1863
CC	26	110	2860	65	1690	175	4550
CT	118	6	708	6	708	12	1416
SC	13	0	0	446	5798	446	5798
DR	185	158	29230	0	0	158	29230
RS	31	4	124	0	0	4	124
MH	37	7	259	0	0	7	259
AD	53	10	530	0	0	10	530
AH	53	0	0	0	0	0	0
EU	85	103	8755	0	0	103	8755
GU	93	17	1581	0	0	17	1581
TR	40	0	0	0	0	0	0
PO	37	43	1591	184	6808	227	8399
MI	87	3	218	3	218	5	435
TOTAL		784	70928	4313	55057	5096	125985

APPENDIX B